

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

GAYLA SMITH,

Plaintiff,

v.

RICHARD WASHINGTON,
CELADON TRUCKING SERVICES, INC.
and JASON SMITH

Defendants.

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C.A. NO.: 3:16-cv-374

DEFENDANT'S NOTICE OF REMOVAL

Defendant, Celadon Trucking Services, Inc. files this Notice of Removal pursuant to 28 U.S.C. § 1441.

I. INTRODUCTION

1. Pursuant to 28 U.S.C. § 1441, *et seq.*, this civil action is removed from the 443rd Judicial District Court, in Ellis County, Texas, where this matter was pending under Cause No. 92974, in a matter styled, *Gayla Smith v. Richard Washington, Celadon Trucking Services, Inc. and Jason Smith*.

II. NATURE OF SUIT

2. Plaintiff's lawsuit arises from an automobile collision. Plaintiff seeks actual damages, pain and suffering, mental anguish, physical impairment, past and future loss of earnings, past and future disfigurement, past and future medical expenses, and exemplary damages. *See* Plaintiff's Original Petition at *Tab 1*.

III. TIMELINESS OF REMOVAL

3. Plaintiff commenced this lawsuit by filing her Original Petition on January 15, 2016. Plaintiff's Petition asserts an amount in controversy of over seventy-five thousand dollars (\$75,000.00).

4. Thus, pursuant to 28 U.S.C. § 1446(b)(3), this Notice of Removal is timely filed within thirty (30) days after receipt of information from which it may first be ascertained that the case is one which is or has become removable.

IV. BASIS FOR REMOVAL JURISDICTION

5. Removal is proper under 28 U.S.C. §§1441 and 1332(a) because there is a complete diversity of citizenship between Plaintiff and the properly-named Defendants in this lawsuit and the amount in controversy exceeds \$75,000.00. No current properly joined Defendant is a citizen of Texas.

A. Proper Parties

6. Plaintiff is and was at the time of filing of this action, a citizen of Texas.

7. Defendant Celadon Trucking Services, Inc. is now, and was at the time of the filing of this action, a New Jersey corporation that is headquartered and has its principal place of business in Indianapolis, Indiana.

8. Defendant Richard Washington is now, and was at the time of the filing of this action, a citizen of Arkansas.

9. Defendant Jason Smith, the husband of Plaintiff, is a resident of Texas.

10. If a Defendant has been fraudulently or improperly joined, that defendant is disregarded for purposes of determining diversity. *See Cantor v. Wachovia Mortgage, FSB*, 641 F.Supp. 2d, 602, 605 (N.D.Tex.2009) (citing *Smallwood v. Illinois Cent. R.R. Co.*, 385 F.3d 568, 572 (5th Cir. 2004)). “Fraudulent or improper joinder is established when the removing party meets the heavy burden of showing: (1) there was actual fraud in pleading the jurisdictional facts; or (2) the plaintiff is unable to establish a cause of action against the non-diverse defendant under state law.” *Id.*

11. Although Defendant Jason Smith is a non-diverse party, he has been improperly joined in this lawsuit to defeat diversity jurisdiction. Specifically, Plaintiff’s pleadings against Defendant Jason Smith fail to establish a cause of action against him under state law.

12. To prove improper joinder, a Defendant must show there is no reasonable basis for predicting that state law might impose liability against any non-diverse Defendant. *See Travis v. Irby*, 326 F.3d 644, 647 (5th Cir. 2003). Instead, the court must determine whether plaintiff might possibly prevail. *See Staples v. Merck & Co.*, 270 F.Supp.2d 833, 837 (N.D. Tex. 2003). The court uses a standard to that employed for motions to dismiss under Federal Rule of Civil Procedure 12(b)(6) in order to determine whether a “reasonable basis” for liability exists. *Id.* A “mere theoretical possibility” of recovery under state law does not suffice to preclude removal. *See Badon v. RJR Nabisco, Inc.*, 236 F.3d 282, 286 (5th Cir. 2000).

13. In this case, taking all factual assertions contained in Plaintiff’s pleadings in Plaintiff’s favor, there is nothing more than a mere theoretical possibility that Plaintiff could prevail in her claims against Defendant Jason Smith.

14. Specifically, Plaintiff’s Petition asserts that Plaintiff’s claims relate to an automobile accident which took place on January 30, 2014. With regard to specific allegations and assertions related to Defendant Jason Smith, Plaintiff’s Petition states or asserts the following:

- Plaintiff Gayla Smith was a passenger in a vehicle driven by Jason Smith and stopped at the stop light on Highway 77 when suddenly and without warning, Defendant Richard Washington, operating a (sic) 18-wheeler...collided with Plaintiff's vehicle.
- This accident was investigated by Officer William Kimsey with the Waxahachie Police Department who determined Defendant Richard Washington failed to properly turn his vehicle at the time of this incident.
- POTENTIAL NEGLIGENCE OF DEFENDANT JASON SMITH: On or about January 30, 2014, Defendant Jason Smith may have been negligent in failing to pay attention to the roadway and/or failing to take proper evasive action. Any negligence of Defendant Jason Smith may have been a much smaller proximate cause of the injuries and permanent damages suffered by Plaintiff.

15. A review of Plaintiff's Petition shows that Plaintiff has made clear, direct, and specific assertions of negligence against both Defendant Celadon and Defendant Washington. However, Plaintiff does not even assert that her husband, Defendant Smith, was negligent. She only states that he *may have been negligent*. Moreover, Plaintiff's Petition contains no facts supporting any element of negligence as to Defendant Jason Smith. *See Cantor*, 641 F.Supp. 2d at 612, citing *Great Plains Trust Co. v. Morgan Stanley Dean Witter & Co.*, 313 F.3d 305, 312 (5th Cir. 2002) ("When Plaintiffs make general allegations and fail to support them with specific, underlying facts, they have not established a reasonable basis for the Court to predict that relief may be granted).

16. A district court may pierce the pleadings and conduct a summary inquiry into the propriety of joinder if discrete facts have been omitted. *See Smallwood*, 395 F.3d at 573. To the extent the Court wishes to go beyond the Plaintiff's pleadings, Defendant attaches hereto as (*See Exhibit A*) a true and correct copy of the Texas Peace Officer's Crash Report related to the incident involving Plaintiff. The report shows that the investigating officer did not attribute any actions of Defendant Jason Smith as having contributed to this collision. *See Travis*, 326 F.3d at 648-49.

17. Based on the foregoing, Defendant Jason Smith's joinder in this lawsuit should be disregarded for purposes of determining subject matter jurisdiction.

B. Amount in Controversy

18. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs. Plaintiff seeks actual damages, pain and suffering, mental anguish, physical impairment, past and future loss of earnings, past and future medical expenses, and exemplary damages. Plaintiff's Petition asserts Plaintiff is seeking monetary relief in excess of \$200,000.00. Accordingly, it is "facially apparent" that Plaintiff's claims likely exceed \$75,000.00, which is all that is required to satisfy the amount-in-controversy requirement. *See Allen v. R&H Oil & Gas Co.*, 63 F.3d 1326, 1335 (5th Cir. 1995).

V. NOTICE IS PROCEDURALLY CORRECT

19. Defendant has attached to this Notice of Removal the documents currently available to Defendant, as required by 28 U.S.C. § 1446(a) and Local Rule 81 as follows:

A: Index of all attachments, including a copy of the state-court docket sheet and a copy of each document filed in the State Court Action. Defendant has submitted a request to the district clerk of Ellis County and will supplement this notice of removal as soon as the complete file is received from the state court (*See Exhibit B*). Defendant attaches hereto the documents currently in its possession.

B: All executed process in the State Court Action; and

C: List of all counsel, including addresses, telephone numbers and parties represented.

20. This action may be removed to this Court pursuant to 28 U.S.C. § 1441(b) because no properly joined and served Defendant is a citizen of Texas, the state in which the action was brought. This action is removable to this Court because this United States District Court and Division embraces the place where the State Court Action was pending. 28 U.S.C. §§124(a)(1), 1441(a).

21. In accordance with 28 U.S.C. § 1446(d), written notice of filing of this Notice of Removal will be given to all parties and to the Clerk of the 443rd Judicial District Court in Ellis County, Texas.

DATED: February 10, 2016

Respectfully Submitted,

**GAUNTT, KOEN, BINNEY, WOODALL &
KIDD, LLP**

/s/ Robert J. Collins

KARL W. KOEN

State Bar No.: 11652275

karl.koen@gkbwklaw.com

ROBERT J. COLLINS

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972-630-4620 – Telephone

972-630-4669 – Facsimile

**ATTORNEY FOR DEFENDANT CELADON
TRUCKING SERVICES, INC.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was forwarded to the following counsel of record pursuant to the Federal Rules of Civil Procedure, as indicated below, on this the 10th day of February, 2016.

Via Facsimile # (972) 938-7676

Mr. Stephen Daniel
Jenkins & Jenkins
516 West Main Street
Waxahachie, Texas 75165

/s/ Robert J. Collins

ROBERT J. COLLINS

Law Enforcement and TxDOT Use ONLY

☐ FATAL ☒ CMV ☐ SCHOOL BUS ☐ RAILROAD ☐ MAB ☐ SUPPLEMENT ☐ ACTIVE SCHOOL ZONE
Total
Num.
Units 3Total
Num.
Prns. 3TxDOT 13418280.1
Crash ID /2013310535

Texas Peace Officer's Crash Report (Form CR-3 1/1/2010)

Mail to: Texas Department of Transportation, Crash Records, P.O. Box 149348, Austin, TX 78714. Questions? Call (512) 486-5780

Refer to Attached Code Sheet for Numbered Fields

Page 1 of 4

* = These fields are required on all additional sheets submitted for this crash (ex.: additional vehicles, occupants, injured, etc.).

| * Crash Date (MM/DD/YYYY) 08/08/2013 | | * Crash Time (24HRMM) 1755 | | Case ID 2013-30172 | | Local Use | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| * County Name HARRISON | | | | * City Name MARSHALL | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| In your opinion, did this crash result in at least \$1,000 damage to any one person's property? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | | | | Latitude (decimal degrees) | | Longitude (decimal degrees) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ROAD ON WHICH CRASH OCCURRED | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| * 1 Rdwy. Sys. LR | | * Hwy. Num. | | 2 Rdwy. Part 1 | | Block Num. 1300 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 Street Prefix | | * Street Name United Flight Ninety Three | | 4 Street Suffix | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> Crash Occurred on a Private Drive or Road/Private Property/Parking Lot | | | | <input type="checkbox"/> Toll Road/ Toll Lane | | Speed Limit 20 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Const. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | | | Works <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | Street Desc. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| INTERSECTING ROAD, OR IF CRASH NOT AT INTERSECTION, NEAREST INTERSECTING ROAD OR REFERENCE MARKER | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| At <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | 1 Rdwy. Sys. LR | | Hwy. Num. | | 2 Rdwy. Part | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 Street Prefix | | Block Num. 1700 | | 3 Street Prefix | | Street Name Poplar | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4 Street Suffix ST | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Distance from Int. or Ref. Marker 200 | | <input checked="" type="checkbox"/> FT <input type="checkbox"/> MI | | 3 Dir. from Int. or Ref. Marker N | | Reference Marker | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Street Desc. | | RRX Num. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Unit Num. 1 | | 5 Unit Desc. 1 | | <input type="checkbox"/> Parked Vehicle | | <input type="checkbox"/> Hit and Run | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| LP State TX | | LP Num. DG4D398 | | VIN 1 F M P U 1 7 L 9 4 L A 2 3 5 8 9 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Veh. Year 2004 | | 6 Veh. Color GRN | | Veh. Make FORD | | Veh. FORD EXPEDITION Model (UTILITY) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 7 Body Style sv | | <input type="checkbox"/> Pol., Fire, EMS on Emergency (Explain in Narrative if checked) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 8 DL/ID Type 1 | | DL/ID State TX | | DL/ID Num. 09688876 | | 9 DL Class C | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 10 CDL End. 96 | | 11 DL Rest. 96 | | DOB (MM/DD/YYYY) 02/28/1964 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Address (Street, City, State, ZIP) 151 Borea One A Jefferson, TX 75670 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1"> <thead> <tr> <th>Person Num.</th> <th>12 Psn. Type</th> <th>13 Seat Position</th> <th>Name: Last, First, Middle Enter Driver or Primary Person for this Unit on first line</th> <th>14 Injury Severity</th> <th>15 Age</th> <th>16 Sex</th> <th>17 Eject</th> <th>18 Restr.</th> <th>19 Airbag</th> <th>20 Helmet</th> <th>21 Sol.</th> <th>22 Alc. Spec.</th> <th>23 Alc. Result</th> <th>24 Drug Spec.</th> <th>25 Drug Result</th> <th>26 Drug Category</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>1</td> <td>1</td> <td>Powell, Wanda Sue</td> <td>N</td> <td>49</td> <td>W</td> <td>2</td> <td>1</td> <td>1</td> <td>1</td> <td>97</td> <td>N</td> <td>96</td> <td>96</td> <td>97</td> <td>97</td> </tr> <tr> <td>2</td> <td>2</td> <td>5</td> <td>Powell, Addison</td> <td>N</td> <td>7</td> <td>W</td> <td>2</td> <td>1</td> <td>7</td> <td>1</td> <td>97</td> <td>N</td> <td colspan="4">Not Applicable - Alcohol and Drug Results are only reported for Driver/Primary Person for each Unit.</td> </tr> </tbody> </table> | | | | | | | | Person Num. | 12 Psn. Type | 13 Seat Position | Name: Last, First, Middle Enter Driver or Primary Person for this Unit on first line | 14 Injury Severity | 15 Age | 16 Sex | 17 Eject | 18 Restr. | 19 Airbag | 20 Helmet | 21 Sol. | 22 Alc. Spec. | 23 Alc. Result | 24 Drug Spec. | 25 Drug Result | 26 Drug Category | 1 | 1 | 1 | Powell, Wanda Sue | N | 49 | W | 2 | 1 | 1 | 1 | 97 | N | 96 | 96 | 97 | 97 | 2 | 2 | 5 | Powell, Addison | N | 7 | W | 2 | 1 | 7 | 1 | 97 | N | Not Applicable - Alcohol and Drug Results are only reported for Driver/Primary Person for each Unit. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| 1 | 1 | 1 | Powell, Wanda Sue | N | 49 | W | 2 | 1 | 1 | 1 | 97 | N | 96 | 96 | 97 | 97 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2 | 2 | 5 | Powell, Addison | N | 7 | W | 2 | 1 | 7 | 1 | 97 | N | Not Applicable - Alcohol and Drug Results are only reported for Driver/Primary Person for each Unit. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Lessee Owner/Lessee Name & Address Powell, Wanda Sue, 151 Borea One A Jefferson, TX 75670 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Proof of <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Expired <input type="checkbox"/> No <input type="checkbox"/> Exempt Fin. Resp. <input type="checkbox"/> No <input type="checkbox"/> Exempt 26 Fin. Resp. Type 2 Fin. Resp. Name Nation Wide Fin. Resp. Num. PPGM00227079564 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 27 Vehicle Damage Rating 1 3 R P 2 27 Vehicle Damage Rating 2 Vehicle <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Inventoried <input checked="" type="checkbox"/> No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Towed By | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1"> <tr> <td>Unit Num. 2</td> <td>5 Unit Desc. 1</td> <td><input type="checkbox"/> Parked Vehicle</td> <td><input type="checkbox"/> Hit and Run</td> <td>LP State IN</td> <td>LP Num. 2042185</td> <td>VIN 3 H S D J S J R 6 C N 5 4 4 3 9 7</td> </tr> <tr> <td>Veh. Year 2012</td> <td>6 Veh. Color WHI</td> <td>Veh. Make INTERNATIONAL</td> <td>Veh. Model INTERNATIONAL TRUCKS</td> <td>7 Body Style TR</td> <td><input type="checkbox"/> Pol., Fire, EMS on Emergency (Explain in Narrative if checked)</td> <td></td> </tr> <tr> <td>8 DL/ID Type 2</td> <td>DL/ID State FL</td> <td>DL/ID Num. P50088449304</td> <td>9 DL Class 98</td> <td>10 CDL End. 98</td> <td>11 DL Rest. 98</td> <td>DOB (MM/DD/YYYY) 08/21/1949</td> </tr> <tr> <td colspan="7">Address (Street, City, State, ZIP) 9125 McMillan LN Tampa, FL 33635</td> </tr> <tr> <td colspan="7"> <table border="1"> <thead> <tr> <th>Person Num.</th> <th>12 Psn. 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| Address (Street, City, State, ZIP) 9125 McMillan LN Tampa, FL 33635 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| 1 | 1 | 1 | Pina, Wilfred Donald | N | 63 | W | 1 | 1 | 1 | 1 | 97 | N | 96 | 96 | 97 | 97 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| 27 Vehicle Damage Rating 1 27 Vehicle Damage Rating 2 Vehicle <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Inventoried <input checked="" type="checkbox"/> No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Towed By | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

EXHIBIT A

Law Enforcement and TxDOT Use ONLY.
Form CR-3 1/1/2010

Case ID 2013-30172

TxDOT Crash ID 13418280.1/2013310535

Page 2 of 4

| DISPOSITION OF INJURED/KILLED | Unit Num. | Prsn. Num. | Taken To | Taken By | Date of Death (MM/DD/YYYY) | Time of Death (24HRMM) |
|-------------------------------|-----------|------------|----------|----------|----------------------------|------------------------|
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

| CHARGES | Unit Num. | Prsn. Num. | Charge | Citation/Reference Num. |
|---------|-----------|------------|--------|-------------------------|
| | | | | |
| | | | | |
| | | | | |

| DAMAGE | Damaged Property Other Than Vehicles | Owner's Name | Owner's Address |
|--------|--------------------------------------|--------------|-----------------|
| | | | |

| CMV | Unit Num. | 2 | <input checked="" type="checkbox"/> 10,001+ LBS. | <input type="checkbox"/> TRANSPORTING HAZARDOUS MATERIAL | <input type="checkbox"/> 9+ CAPACITY | 28 Veh. Oper. | 1 | 29 Carrier ID Type | 1 | Carrier ID Num. | 00261902 | | | | | | | | | |
|-----|--|--------------------------|--|--|---|-------------------------------|-------------------------------|---------------------------------|---|------------------|-----------|-------------------|----|-----------------|---|----------------------|---|----------------------|---|--------------------|
| | Carrier's Corp. Name | Coladon Trucking Service | | | | | Carrier's Primary Addr. | 9503 E 33rd ST Indianapolis, IN | | | | | | | | | | | | |
| | 30 Rdwy. Access | 3 | 31 Veh. Type | 9 | <input checked="" type="checkbox"/> RGWW | <input type="checkbox"/> GVWR | 8 | 0 | 0 | 0 | 0 | | | | | | | | | |
| | 33 Cargo Body Style | 3 | Trailer 1 | Unit Num. | 3 | <input type="checkbox"/> RGWW | <input type="checkbox"/> GVWR | 34 Trlr. Type | 1 | Trailer 2 | Unit Num. | | | | | | | | | |
| | Sequence Of Events | 35 Seq. 1 | 13 | 35 Seq. 2 | | 35 Seq. 3 | | 35 Seq. 4 | | Total Num. Axles | 5 | Total Num. Tires | 18 | | | | | | | |
| | 36 Contributing Factors (Investigator's Opinion) | Unit Num. | Contributing | May Have Contrib. | 37 Vehicle Defects (Investigator's Opinion) | Contributing | May Have Contrib. | 38 Weather Cond. | 1 | 39 Light Cond. | 1 | 40 Entering Roads | 97 | 41 Roadway Type | 1 | 42 Roadway Alignment | 1 | 43 Surface Condition | 1 | 44 Traffic Control |

| NARRATIVE AND DIAGRAM | Investigator's Narrative Opinion of What Happened (Attach Additional Sheets if Necessary) | | Field Diagram - Not to Scale | |
|-----------------------|--|--|------------------------------|--|
| | Unit 1 was traveling north bound in the 1300 block of United Flight Ninety Three St. Unit 2 was backing out of the ABC Auto parts parking lot, which is in the 1300 block of United Flight Ninety Three. Unit 3, which was being towed by Unit 2, then collided with Unit 1. The driver of Unit 1 stated that she did not see Unit 2 backing out. The driver of Unit 2 stated that he did not see Unit 1 behind him. | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

| INVESTIGATOR | Time Notified (24HRMM) | 1 | 7 | 1 | 9 | How Notified Dispatch | Time Arrived (24HRMM) | 1 | 8 | 0 | 2 | Report Date (MM/DD/YYYY) | 0 | 8 | 1 | 0 | 8 | 2 | 0 | 1 | 3 |
|--------------|---|--|---|---|---|-----------------------|-----------------------|---|---|---|---|--------------------------|---|---|---|---|---|---|---|---|---|
| | Invest. <input checked="" type="checkbox"/> Yes | Investigator Name (Printed) Adkinson, Michael Cory | | | | | | | | | | ID Num. 2260 | | | | | | | | | |
| | Comp. <input type="checkbox"/> No | | | | | | | | | | | District/Area A | | | | | | | | | |
| | ORI Num. t x 1 0 2 0 2 0 0 | *Agency MARSHALL POLICE DEPARTMENT | | | | | | | | | | | | | | | | | | | |

Law Enforcement and TxDOT Use ONLY

☐ FATAL ☒ CMV ☐ SCHOOL BUS ☐ RAILROAD ☐ MAB ☐ SUPPLEMENT ☐ ACTIVE SCHOOL ZONE

| | | | | |
|------------------|---|------------------|---|----------------------|
| Total Num. Units | 3 | Total Num. Prns. | 3 | TxDOT 13418280.1 |
| | | | | Crash ID /2013310535 |



Texas Peace Officer's Crash Report (Form CR-3 1/1/2010)

Mail to: Texas Department of Transportation, Crash Records, P.O. Box 149349, Austin, TX 78714. Questions? Call (512) 486-5780

Refer to Attached Code Sheet for Numbered Fields

Page 3 of 4

* = These fields are required on all additional sheets submitted for this crash (ex.: additional vehicles, occupants, injured, etc.).

| * Crash Date (MM/DD/YYYY) 08/09/2013 | | * Crash Time (24HRMM) 1755 | | Case ID 2013-30172 | | Local Use | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|---------------|---|---|--|-----|--|--------|-------------|---------------|------------------|---|--------------------|---------------|----------------|---------------|----------------|-----------|-----------|-----------|---------|---------------|----------------|---------------|----------------|----------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| * County Name HARRISON | | | | * City Name MARSHALL | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| In your opinion, did this crash result in at least \$1,000 damage to any one person's property? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | | | | Latitude (decimal degrees) | | Longitude (decimal degrees) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ROAD ON WHICH CRASH OCCURRED | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| * 1 Rdw. Sys. LR | | * Hwy. Num. | | 2 Rdw. Part 1 | | Block Num. 1300 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 Street Prefix | | * Street Name United Flight Ninety Three | | 4 Street Suffix | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> Crash Occurred on a Private Drive or Road/Private Property/Parking Lot | | | | <input type="checkbox"/> Toll Road/Toll Lane | | Speed Limit 20 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Const. Zone <input checked="" type="checkbox"/> No | | Workers Present <input checked="" type="checkbox"/> No | | Street Desc. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| INTERSECTING ROAD, OR IF CRASH NOT AT INTERSECTION, NEAREST INTERSECTING ROAD OR REFERENCE MARKER | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| At Int. <input checked="" type="checkbox"/> No | | 1 Rdw. Sys. LR | | Hwy. Num. | | 2 Rdw. Part | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Block Num. 1700 | | 3 Street Prefix | | Street Name Poplar | | 4 Street Suffix ST | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Distance from Int. or Ref. Marker 200 | | <input checked="" type="checkbox"/> FT <input type="checkbox"/> MI | | 3 Dir. from Int. or Ref. Marker N | | Reference Marker | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Street Desc. | | RRX Num. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Unit Num. 3 | | 5 Unit Desc. 6 | | <input type="checkbox"/> Parked Vehicle | | <input type="checkbox"/> Hit and Run | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| LP State IN | | LP Num. P314031 | | VIN 1J3V532D1C1620617 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Veh. Year 2012 | | 6 Veh. Color WHI | | Veh. Make UNKNOWN | | Veh. Model | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 7 Body Style TL | | <input type="checkbox"/> Pol., Fire, EMS on Emergency (Explain in Narrative if checked) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 8 DL/ID Type | | DL/ID State | | DL/ID Num. | | 9 DL Class | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 10 CDL End. | | 11 DL Rest. | | DOB (MM/DD/YYYY) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Address (Street, City, State, ZIP) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Proof of Fin. Resp. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> Expired <input type="checkbox"/> No <input type="checkbox"/> Exempt | | 26 Fin. Resp. Type 2 | | Fin. Resp. Name Regions Insurance | | Fin. Resp. Num. MC185116-self insured | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fin. Resp. Phone Num. 479-684-5250 | | 27 Vehicle Damage Rating 1 6 | | 27 Vehicle Damage Rating 2 | | Vehicle Inventoried <input checked="" type="checkbox"/> No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Towed By | | Towed To | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1"> <thead> <tr> <th>Person Num.</th> <th>12 Prsn. Type</th> <th>13 Seat Position</th> <th>Name: Last, First, Middle Enter Driver or Primary Person for this Unit on first line</th> <th>14 Injury Severity</th> <th>Age</th> <th>15 Ethnicity</th> <th>16 Sex</th> <th>17 Eject</th> <th>18 Restr.</th> <th>19 Airbag</th> <th>20 Helmet</th> <th>21 Sol.</th> <th>22 Alc. Spec.</th> <th>23 Alc. Result</th> <th>24 Drug Spec.</th> <th>25 Drug Result</th> <th>Category</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table> | | | | | | | | Person Num. | 12 Prsn. Type | 13 Seat Position | Name: Last, First, Middle Enter Driver or Primary Person for this Unit on first line | 14 Injury Severity | Age | 15 Ethnicity | 16 Sex | 17 Eject | 18 Restr. | 19 Airbag | 20 Helmet | 21 Sol. | 22 Alc. Spec. | 23 Alc. Result | 24 Drug Spec. | 25 Drug Result | Category | | | | | | | | | | | | | | | | | | |
| Person Num. | 12 Prsn. Type | 13 Seat Position | Name: Last, First, Middle Enter Driver or Primary Person for this Unit on first line | 14 Injury Severity | Age | 15 Ethnicity | 16 Sex | 17 Eject | 18 Restr. | 19 Airbag | 20 Helmet | 21 Sol. | 22 Alc. Spec. | 23 Alc. Result | 24 Drug Spec. | 25 Drug Result | Category | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Not Applicable - Alcohol and Drug Results are only reported for Driver/Primary Person for each Unit. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> Owner <input type="checkbox"/> Lessee Owner/Lessee Name & Address | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Proof of Fin. Resp. <input type="checkbox"/> Yes <input type="checkbox"/> Expired <input type="checkbox"/> No <input type="checkbox"/> Exempt | | 26 Fin. Resp. Type | | Fin. Resp. Name | | Fin. Resp. Num. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fin. Resp. Phone Num. | | 27 Vehicle Damage Rating 1 | | 27 Vehicle Damage Rating 2 | | Vehicle Inventoried <input type="checkbox"/> No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Towed By | | Towed To | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

Law Enforcement and TxDOT Use ONLY.
Form CR-3 1/1/2010

Case ID 2013-30172

TxDOT Crash ID 13418280.1/2013310535

Page: 4 of 4

| | | | | | | |
|----------------------------------|-----------|------------|----------|----------|----------------------------|------------------------|
| DISPOSITION OF INJURED/KILLED | Unit Num. | Prsn. Num. | Taken To | Taken By | Date of Death (MM/DD/YYYY) | Time of Death (24HRMM) |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

| | | | | |
|---------|-----------|------------|--------|-------------------------|
| CHARGES | Unit Num. | Prsn. Num. | Charge | Citation/Reference Num. |
| | | | | |
| | | | | |

| | | | |
|--------|--------------------------------------|--------------|-----------------|
| DAMAGE | Damaged Property Other Than Vehicles | Owner's Name | Owner's Address |
| | | | |

| | | | | | | | |
|-----|----------------------|---------------------------------------|--|--|----------------------|--------------------|---|
| CMV | Unit Num. | <input type="checkbox"/> 10,001+ LBS. | <input type="checkbox"/> TRANSPORTING HAZARDOUS MATERIAL | <input type="checkbox"/> 9+ CAPACITY | 28 Veh. Oper. | 29 Carrier ID Type | Carrier ID Num. |
| | Carrier's Corp. Name | Carrier's Primary Addr. | | | | | |
| | 30 Rdwy. Access | 31 Veh. Type | <input type="checkbox"/> RGWV <input type="checkbox"/> GVWR | HazMat Released <input type="checkbox"/> Yes <input type="checkbox"/> No | 32 HazMat Class Num. | HazMat ID Num. | 32 HazMat Class Num. HazMat ID Num. |
| | 33 Cargo Body Style | Trailer 1 | Unit Num. | <input type="checkbox"/> RGWV <input type="checkbox"/> GVWR | 34 Trlr. Type | Trailer 2 | Unit Num. <input type="checkbox"/> RGWV <input type="checkbox"/> GVWR |
| | Sequence Of Events | 35 Seq. 1 | 35 Seq. 2 | 35 Seq. 3 | 35 Seq. 4 | Total Num. Axles | Total Num. Tires |

| | | | | | | | | | | | | | | | | |
|----------------------|--|--------------|-------------------|--|---|-------------------|--|--|--------------------------------------|----------------|-------------------|-----------------|----------------------|----------------------|--------------------|--|
| FACTORS & CONDITIONS | 36 Contributing Factors (Investigator's Opinion) | | | | 37 Vehicle Defects (Investigator's Opinion) | | | | Environmental and Roadway Conditions | | | | | | | |
| | Unit Num. | Contributing | May Have Contrib. | | Contributing | May Have Contrib. | | | 38 Weather Cond. | 39 Light Cond. | 40 Entering Roads | 41 Roadway Type | 42 Roadway Alignment | 43 Surface Condition | 44 Traffic Control | |
| | | | | | | | | | | | | | | | | |

| | | |
|-----------------------|--|------------------------------|
| NARRATIVE AND DIAGRAM | Investigator's Narrative Opinion of What Happened (Attach Additional Sheets if Necessary) | Field Diagram - Not to Scale |
| | | |

| | | | | | | | |
|--------------|---|--|-----------------------|------------------------|---------------|--------------------------|---------------------------------------|
| INVESTIGATOR | Time Notified (24HRMM) | 1 7 1 9 | How Notified Dispatch | Time Arrived (24HR:MM) | 1 8 0 2 | Report Date (MM/DD/YYYY) | 0 8 1 0 8 1 2 0 1 3 |
| | Invest. <input checked="" type="checkbox"/> Yes | Investigator Name (Printed) Adkinson, Michael Cory | | | | | ID Num. 2260 |
| | Comp. <input type="checkbox"/> No | | | | | | District/ Area |
| | ORI Num. 1 x 1 0 2 0 2 0 0 | *Agency MARSHALL POLICE DEPARTMENT | | | | | |



GAUNTT KOEN BINNEY WOODALL & KIDD, LLP
SOLID PRINCIPLES | SOUND LEGAL SOLUTIONS

February 10, 2016

Via First Class Mail

Ms. Jackie Ray
443rd Judicial District
109 S. Jackson
Waxahachie, Texas 75165

Re: Cause No.: 92974
Gayla Smith v. Richard Washington, Celadon Trucking Services, Inc. and Jason Smith
DOI: 1-30-14
Our File No.: **7581.214150**

Dear Ms. Reed:

Please allow this correspondence to serve as our request for a complete copy of the Court's file related to the above-referenced cause number. Our office is considering removing this matter to federal court and we need a copy of the entire contents in the Court's file including the case summary and docket sheet. Please contact me at the telephone number below or via email of the cost to complete such request and we will remit payment immediately.

I truly appreciate your assistance. Should you have any questions, please do not hesitate to contact me at (972) 630-4620.

Sincerely,

/s/ Melissa C. Shaffer

Melissa C. Shaffer
Melissa.Shaffer@gkbwklaw.com

MCS/kt